

JUN 26 1997

Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 97-107
Table of Allotments,)	RM-9023
FM Broadcast stations.)	
(Potts Camp and Saltillo, Mississippi))	

To: Chief, Allocations Branch

PETITION FOR LEAVE TO FILE SUPPLEMENT TO COMMENTS

On May 19, 1997, Broadcasters & Publishers, Inc. ("B&P") filed Comments and a counterproposal in the above-captioned rulemaking proceeding. In its Comments, B&P opposed the proposal of Olive E. Sisk ("Sisk"), licensee of Station WCNA(FM), Potts Camp, Mississippi, to modify the license of WCNA(FM) to specify operation on Channel 240C3 at Saltillo, Mississippi, in lieu of Potts Camp. In its counterproposal, B&P proposed that Channel 275C3 be allotted to Saltillo as its first local service.

In Reply Comments filed on June 3, 1997, Sisk provides for the first time additional information concerning Potts Camp and the results of a survey he conducted on May 23, 1997, in support of his contention that the community of Potts Camp has declined to the point that it is no longer worthy of community status. Although this showing is being made for the first time in Reply Comments, B&P is not asking the Commission for permission it to submit a response. In B&P's view, its Comments provide ample

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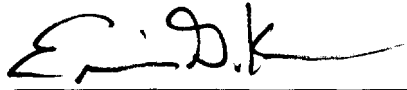
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support both with respect to the facts involved and Commission precedent as to why the Potts Camp should not be deprived of its only local aural transmission service.

B&P does request leave to submit the attached Supplement in order to respond to Sisk's attack in his Reply Comments on the timeliness and acceptability of B&P's counterproposal. The Supplement responds to Sisk's misleading citation of Commission precedent and its criticism of B&P for not making "any representation about the status of construction of the modified facility [for Como, Mississippi]."

Respectfully submitted,

BROADCASTERS & PUBLISHERS, INC.

By: 
Erwin G. Krasnow
Verner, Liipfert, Bernhard,
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901 15th Street, N.W., Suite 700
Washington, D.C. 20005

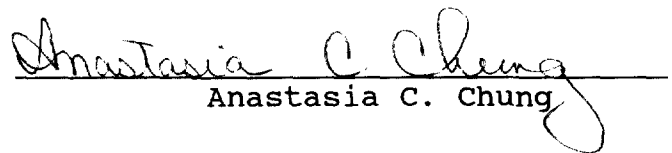
Its Attorneys

June 26, 1997

VLDC01-182755.1

CERTIFICATE OF SERVICE

This is to certify that I, Anastasia C. Chung, have filed the foregoing Petition for Leave to File Supplement to Comments with the Federal Communications Commission on this 26th day of June, 1997, and that a copy has been served by way of U.S. mail, postage pre-paid, upon Frank R. Jazzo, Esq., Anne Goodwin Crump, Esq., of the law firm of Fletcher, Harold & Hildreth, P.L.C., Eleventh Floor, 1300 North 17th Street, Rosslyn, Virginia 22209, Counsel for Olvie E. Sisk.


Anastasia C. Chung

Before the
Federal Communications Commission
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Table of Allotments,) RM-9023
FM Broadcast stations.)
(Potts Camp and Saltillo, Mississippi))

To: Chief, Allocations Branch

**SUPPLEMENT TO COMMENTS AND COUNTERPROPOSAL OF
BROADCASTERS & PUBLISHERS, INC.**

On May 19, 1997, Broadcasters & Publishers, Inc. ("B&P") filed Comments and a counterproposal in the above-captioned rulemaking proceeding. In its Comments, B&P opposed the proposal of Olive E. Sisk ("Sisk"), licensee of Station WCNA(FM), Potts Camp, Mississippi, to modify the license of WCNA(FM) to specify operation on Channel 240C3 at Saltillo, Mississippi, in lieu of Potts Camp. In its counterproposal, B&P proposed that Channel 275C3 be allotted to Saltillo as its first local service.

In Reply Comments filed on June 3, 1997, Sisk contends that B&P's proposal that Channel 275C3 be allotted to Saltillo is unacceptable as a counterproposal because it is not a true counterproposal and has been filed prematurely. Contrary to Sisk's assertion, B&P's proposal is directly responsive to the issue of whether Saltillo is a community deserving of its first local aural transmission service and if so, whether such an

allotment can only be made at the expense of depriving the community of Potts Camp of its only aural transmission service.

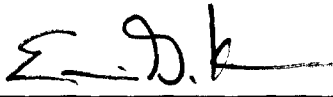
As to timeliness, Sisk contends that in Cut and Shoot Texas, 11 FCC Rcd 16383 (M.Med. Bur. 1996), the Commission has enunciated a policy of not accepting petitions for rulemaking contingent on the licensing of facilities in an outstanding construction permit. Significantly, Sisk fails to mention that in Cut and Shoot, the Commission stated that "[i]n adopting this procedural policy, we stress that such a policy would not be applicable in situations in which a final Commission action in a rulemaking proceeding has modified a license or construction permit to specify operation on another channel." Id. at 16384, n.3. The Commission stated that "[i]n those situations, a rulemaking proponent need only protect the authorization, as modified." Id. At the Commission's records will show, the change in the community of license of Station WWKZ(FM) from New Albany to Como, Mississippi, resulted from a final Commission action in a rulemaking proceeding that modified the license of Station WWKZ to specify a different community of license.

Sisk also fails to mention that in Cut and Shoot, the Commission expressed concern that "[p]rocessing petitions for rulemaking which would rely on other events by third parties to effect the compliance of the proposal with the separation requirements is not conducive to the efficient transaction of

Commission business and imposes unnecessary burdens on the administrative resources of both the Allocations Branch and the Audio Services Division." Id. at 16384. Here, unlike B&P's counterproposal, the proposal in Cut and Shoot was contingent upon the licensing of facilities in an outstanding construction permit held by a third party. In this connection, Sisk faults B&P for not making any representation about the status of the modified WWKZ facility. However, such a showing is not necessary. B&P is proceeding with all due diligence in constructing the modified facilities -- B&P and the owner of the antenna site have worked together in securing zoning approval for the site from the DeSoto County Board of Adjustment. See Attachment A.

Respectfully submitted,

BROADCASTERS & PUBLISHERS, INC.

By: 
Erwin G. Krasnow
Verner, Liipfert, Bernhard,
McPherson and Hand, Chartered
901 15th Street, N.W., Suite 700
Washington, D.C. 20005

Its Attorneys

June 26, 1997

VLDC01-182745.1

ATTACHMENT A

RESOLUTION GRANTING BARRY BRIDGFORTH A CONDITIONAL USE
TO ALLOW A TELECOMMUNICATION TOWER IN THE AGRICULTURAL-RESIDENTIAL ZONE
HEIGHT TO BE 674 FEET, RATHER THAN REGULATION HEIGHT OF 35 FEET
LOCATED ON THE NORTH SIDE OF BYHALIA ROAD, 1/2 MILE WEST OF CRAFT ROAD
SECTION 31, TOWNSHIP 2, AND RANGE 6, ZONED AGRICULTURAL-RESIDENTIAL

BE IT RESOLVED:


That, by virtue of authority vested in the Board of Adjustment under XVI of the DeSoto County Zoning and Subdivision Regulations, after due investigation and public hearing held after notices as required by law, the application by Barry Bridgforth for a conditional use under Article V, paragraph 2, C, (8), page 25 of the DeSoto County Zoning and Subdivision Regulations to allow a telecommunication tower in the Agricultural-Residential Zone and to be 674 feet in height, rather than regulation height of 35 feet has been approved.

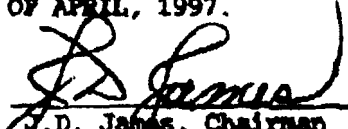
The property is located on the north side of Byhalia Road, approximately 1/2 mile west of Craft Road, in Section 31, Township 2, and Range 6, zoned Agricultural-Residential.

The approval is based upon exhibits to said application filed, statements, testimony and averments made by the applicant and or his representative before the Board of Adjustment as reflected by and contained in the official approved and adopted minutes of said meeting.

ORDERED AND DONE THIS THE 14TH DAY OF APRIL, 1997.


ATTEST:


Carlton Gatlin, Secretary
DeSoto County Board of Adjustment


J.D. James, Chairman
DeSoto County Board of Adjustment

CERTIFICATE OF SERVICE

This is to certify that I, Anastasia C. Chung, have filed the foregoing Supplement to Comments and Counterproposal of Broadcasters & Publishers, Inc. with the Federal Communications Commission on this 26th day of June, 1997, and that a copy has been served by way of U.S. mail, postage pre-paid, upon Frank R. Jazzo, Esq., Anne Goodwin Crump, Esq., of the law firm of Fletcher, Harold & Hildreth, P.L.C., Eleventh Floor, 1300 North 17th Street, Rosslyn, Virginia 22209, counsel for Olvie E. Sisk.


Anastasia C. Chung